Northwest Territories

Policy

11.09
BUSINESS INCENTIVE

The Government of the Northwest Territories may provide an incentive to Northern contractors in order to promote the use of Northern labour and materials purchased in the North and to encourage the development and competitiveness of Northern businesses.

This policy is based on the following principles:

1. Northern Residents should receive every opportunity to benefit from dollars spent in the North.

2. Value for money should be obtained for goods and services purchased.

3. All firms doing or competing for business with the Government of the Northwest Territories will be treated fairly and consistently.

4. Standards of performance will apply equally to all businesses providing service to the Government of the Northwest Territories.

Commissioner and Chairman
of the Executive Council

REFERENCE

For elaboration of the Policy refer to Directive.

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Northwest Territories

Directive

SCOPE

This directive applies to all contracts entered into by departments and territorial agencies of the Government of the Northwest Territories.

1. Supply of goods contracts
2. Construction contracts
3. Service contracts
4. Leases

Yukon contractors qualifying under the NWT Business Incentive Policy are eligible only for an incentive on construction contracts.

EXCLUSION

This directive does not apply to contracts for:

1. Legal services
2. Contracts for architectural and engineering services
3. Those portions of contracts funded by non Government of the Northwest Territories agencies where the funding conditions preclude the application of an incentive.

DEFINITIONS

The following terms used in this Directive are hereby defined:

1. **Contract**

   An obligation arising from mutual agreement between the departments and territorial agencies of the Government of the Northwest Territories and at least one other party, the performance of which the law compels or for which the law gives a remedy in damages and includes contracts for the supply of goods, construction, contracts for services rendered and leases.

2. **General Contractor**

   Undertaker of a contract with departments, crown corporations or agencies of the Government of the Northwest Territories for the purpose of doing work for payment.

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3. **Subcontractor**

Undertaker of a contract with the General Contractor for the purpose of doing work for payment.

4. **Northern Resident**

A person who has been ordinarily resident in the Northwest Territories for the last three years.

5. **Resident Manager**

A person residing in the Northwest Territories who has decision making authority over day to day matters affecting a Northwest Territories' business.

6. **Northern Contractor**

Means a contractor who complies with the legal requirements to carry on business in the Northwest Territories, and meets the following criteria:

A.(1) (a) is a limited company with at least 51% of the company's voting shares beneficially owned by Northern Residents, or

(b) is a co-operative with at least 51% of the co-operative's voting shares beneficially owned by Northern Residents, or

(c) is a sole proprietorship the proprietor of which is a Northern Resident, or

(d) is a partnership the majority interest in which is owned by Northern Residents.

(2) Notwithstanding section A(1) is a Non-resident Contractor that has carried out business in the Northwest Territories for ten years.

B. Maintains a Resident Manager,

C. Maintains a Bona Fide place of business in the NWT, and

D. has received designation as a Northern Contractor prior to submitting a tender.

7. **Yukon Contractor**

For purposes of construction contracts only, a contractor who is a general contractor certified by the Yukon Government under the Yukon Preference Policy, will be deamed to be a Northern Contractor.

8. **Qualification Committees**

A committee in the Keewatin, Kitikmeot, Baffin, Fort Smith and Inuvik Regions chaired by the Regional Director and including such Departmental Representatives as the Regional Director may think necessary.

A committee in Yellowknife chaired by the official responsible for administering the Business Incentives Policy and including such departmental representatives as the official may think necessary.

9. **Adjusted Bid**

For evaluation purposes only a tenderer's bid favourably adjusted by the dollar amount of the applicable incentive.

10. **Contract Authority**

Means a person defined pursuant to the Contract Regulations who enters into contracts that are binding on the Government of the Northwest Territories, or its crown corporations and agencies.

11. **Territorial Agency**

Means a Territorial Committee or a Territorial Corporation as defined in the Financial Administration Ordinance.

12. **Goods**

Means merchandise, wares and materials whether made or manufactured or ready for delivery at the date of contract.

13. **Local Purchasing Authority (LPA)**

Means a form authorized by the Government of the Northwest Territories that permit departments and territorial agencies to purchase goods from Northern contractors within a predetermined value.

PROVISIONS

1. **Authority and Accountability**

(a) Executive Council

Only the Executive Council may approve exceptions to this policy.

(b) Qualification Committees

Qualification Committees are responsible for reviewing applications and determining approval for designation as a Northern Contractor.

2. **Eligibility**

Application for designation as a Northern Contractor applies to general contractors and subcontractors. Contractors and subcontractors must apply for designation where they have a Resident Manager and can demonstrate to the appropriate qualification committee that they meet all criteria of a Northern contractor as set out in the Business Incentive Policy.

3. **Incentive**

(a) **Under $250**

Departments and territorial agencies may purchase goods valued less than two hundred and fifty dollars ($250) directly from Northern contractors using a Local Purchasing Authority (LPA).

(b) **Bid Adjustment**

A fixed percentage will be applied to that portion of the bid that will be carried out by a northern contractor as follows:

(i) **Under $5,000**

For contracts valued at less that $5,000., a twenty percent (20%) incentive [maximum bid adjustment $1,000.]

(ii) **$5,000 - $1,000,000**

For contracts less than $1,000,000 but greater than $5,000, a ten percent (10%) incentive [maximum bid adjustment $100,000.]

(iii) **$1,000,000 - $2,500,000**

For contracts exceeding one million dollars ($1,000,000) and up to two million five hundred thousand dollars ($2,500,000) an incentive of ten percent (10%) to adjust a bid on the first one million dollars ($1,000,000) and a preference of five percent (5%) adjustment on the remainder to a combined maximum adjustment of one hundred and seventy five thousand dollars ($175,000).

(iv) **Over $2,500,000**

For contracts over two million five hundred thousand dollars ($2,500,000) a maximum incentive adjustment to a bid of one hundred and seventy five thousand dollars ($175,000) will apply.

4. **Awarding of Contracts**

Contracts will be awarded in accordance with the Contract Regulations of the Government of the Northwest Territories.

5. **Evaluation**

A bid will be adjusted for evaluation purposes by the Contract Authority when all of the following criteria are met:

(a) A tender submission identifies the value of that part of the contract to be carried out by a Northern Contractor(s).

(b) An officer of the tenderer has certified that the content attributed to Northern Contractors is correct (supporting materials must be available for supply to the contract authority on request).

6. **Monitoring**

If it comes to the attention of the contract authority that a successful tenderer has incorrectly certified or in any way subsequently changed without prior permission, the use of Northern Contractors specified in the tender, the contract authority may disqualify the tenderer from being eligible for the application of an incentive in tendering. Such a decision would be made known to the tenderer in writing.

7. **Advertising Tenders**

Tendering advertisements will be published only in Northwest Territories publications or posted in appropriate public places where there are no newspaper publications.

8. **Registry**

A registry of Northern Contractors will be maintained, updated and published annually by the Department of Government Services.

9. **Policy Review**

In recognition that requirements for a Business Incentive Policy in the Northwest Territories may change, this policy will be reviewed within two years time.

10. **Effective Date**

This policy will apply to all Tenders called after December 17, 1984.

11. **Prerogative of Executive Council**

Nothing in this Directive shall in any way be construed to limit the prerogative of the Executive Council to award or not to award a contract pursuant to a Contract Regulation or take actions, respecting incentive, outside the provisions of this Directive.

Commissioner and Chairman
of the Executive Council.

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